

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/731,421		12/09/2003	Mohan Krishnan	279.650US1	3925	
21186	7590	05/15/2006		EXAMINER		
		LUNDBERG, W	SMITH, TERRI L			
	P.O. BOX 2938 MINNEAPOLIS, MN 55402				PAPER NUMBER	
,				3762		
				DATE MAILED: 05/15/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.	Applicant(s)		
10/731,421	KRISHNAN ET AL.		
Examiner	Art Unit		
Terri L. Smith	3762		

Advisory Action	10/131,421	INTOFINANTET AL.	
Before the Filing of an Appeal Brief	Examiner	Art Unit	
	Terri L. Smith	3762	
The MAILING DATE of this communication appe	ears on the cover sheet with the c	correspondence add	ress
THE REPLY FILED on 02 May 2006 FAILS TO PLACE THIS A			
 The reply was filed after a final rejection, but prior to or o this application, applicant must timely file one of the follo places the application in condition for allowance; (2) a N (3) a Request for Continued Examination (RCE) in comp following time periods: 	on the same day as filing a Notice of pwing replies: (1) an amendment, a otice of Appeal (with appeal fee) in oliance with 37 CFR 1.114. The replications	f Appeal. To avoid ab ffidavit, or other evide compliance with 37 C	ence, which CFR 41.31; or
 a) The period for reply expiresmonths from the mailing of the period for reply expires on: (1) the mailing date of this Adv. 		e final rejection, whicheve	rie later in no
event, however, will the statutory period for reply expire later the Examiner Note: If box 1 is checked, check either box (a) or (b) MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f	an SIX MONTHS from the mailing date o . ONLY CHECK BOX (b) WHEN THE FI r).	f the final rejection. IRST REPLY WAS FILE	OWT NIHTIW C
Extensions of time may be obtained under 37 CFR 1.136(a). The date on been filed is the date for purposes of determining the period of extension a CFR 1.17(a) is calculated from: (1) the expiration date of the shortened stabove, if checked. Any reply received by the Office later than three monthearned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL	and the corresponding amount of the fee. atutory period for reply originally set in the ns after the mailing date of the final rejection	The appropriate extension of the final Office action; or (2) on, even if timely filed, ma	n fee under 37 as set forth in (b) y reduce any
 The Notice of Appeal was filed on A brief in comof filing the Notice of Appeal (37 CFR 41.37(a)), or any essence a Notice of Appeal has been filed, any reply must 	extension thereof (37 CFR 41.37(e)), to avoid dismissal o	of the appeal.
AMENDMENTS		·	,
3. The proposed amendment(s) filed after a final rejection (a) They raise new issues that would require further or (b) They raise the issue of new matter (see NOTE below.	onsideration and/or search (see NC	ef, will <u>not</u> be entered DTE below);	because
(c) They are not deemed to place the application in be appeal; and/or	etter form for appeal by materially r		the issues for
(d) They present additional claims without canceling a NOTE: (See 37 CFR 1.116 and 41.33(a))		ejected claims.	
4. The amendments are not in compliance with 37 CFR 1.	121. See attached Notice of Non-C	ompliant Amendment	t (PTOL-324).
5. Applicant's reply has overcome the following rejection(s	s):		
 Newly proposed or amended claim(s) would be the non-allowable claim(s). 			
7. For purposes of appeal, the proposed amendment(s): a how the new or amended claims would be rejected is proposed. The status of the claim(s) is (or will be) as follows:)	vill be entered and an	explanation of
Claim(s) allowed:			
Claim(s) objected to: Claim(s) rejected:			
Claim(s) withdrawn from consideration:			
AFFIDAVIT OR OTHER EVIDENCE	and before or on the date of filing o	Notice of Appeal will I	not be entered
 The affidavit or other evidence filed after a final action, I because applicant failed to provide a showing of good a and was not earlier presented. See 37 CFR 1.116(e). 	nd sufficient reasons why the affida	avit or other evidence	is necessary
9. The affidavit or other evidence filed after the date of filin entered because the affidavit or other evidence failed to showing a good and sufficient reasons why it is necessary.	overcome <u>all</u> rejections under appoars ory and was not earlier presented.	eal and/or appellant fa See 37 CFR 41.33(d)	ails to provide a (1).
10. The affidavit or other evidence is entered. An explanating REQUEST FOR RECONSIDERATION/OTHER	ion of the status of the claims after	entry is below or atta	ched.
11. The request for reconsideration has been considered by See Continuation Sheet.			ance because:
12. Note the attached Information Disclosure Statement(s) 13. Other:). (PTO/SB/08 or PTO-1449) Paper	No(s)	
		GEORGE R. EV	'ANISKO
11 may 2006		CHIMARY EXA	MINER
11 - may coo		6(12/2)

U.S. Patent and Trademark Office PTOL-303 (Rev. 7-05)

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive and, consequently, claims 1-5, 7-20, and 24 remain finally rejected as set forth in the Office Action mailed on 02 March 2006. Examiner has stated in the record of said Office Action in paragraph 9 why the references have been combined as such and the requirements supporting the combinations. Additionally, when multiple references are used in a 35 USC § 103 rejection, ninety-nine percent (99%) of the time there will always be conflicting elements between the references. The Examiner is not always relying on the conflicting elements of the stated references when meeting the claimed limitations of the application. In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant has repeatedly argued that "outer surface of the lead body is adapted such that a pseudo-intimal layer is formed on the outer surface when exposed to a bloodstream" cannot be found in the art of record. Examiner has stated in the record of said Office Action (paragraph 4, first subparagraph, McAuslan column 2, lines 24-27 and 49-51), that the combinations in paragraph 4 read on this claimed limitation along with the other claimed limitations set forth in the claimed invention where Applicant has argued against the references of record. When multiple references are used in a 35 USC § 103 rejection, ninety-nine percent (99%) of the time there will always be conflicting elements between the references. The Examiner is not always relying on the conflicting elements of the stated references when meeting the claimed limitations of the application..